IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.32670 of 1997

Dated: 27-02-2007

Between:

Jai Bhagwan Chemical Industry Pvt. Ltd.,
Secunderabad, rep. by its Managing Director.

... Petitioner

and

1. The Managing Director,
   A.P. Industrial Infrastructure Corporation Ltd.,
   Hyderabad and 2 others.

... Respondents

ORDER:

This writ petition is filed seeking *mandamus* declaring Proc.No.80/ZO-MLI/IE/MA/96, dated 24-11-1997 of third respondent for resumption of plot No.A-13, Industrial Estate, Moulali, Hyderabad, as arbitrary and illegal.

2. Facts, in brief, are: - Respondents allotted an industrial plot bearing No.A-13 admeasuring 4444.44 square yards to the petitioner-

company vide instrument, dated 15-11-1977 and pending execution of regular sale deed, possession of the said plot was also delivered to it on the same day and since then it has been in possession of the same. Petitioner also raised a shed in the said plot, however, due to some compelling circumstances, the project could not be completed and the construction of civil works could not be taken up further. When respondents threatened the petitioner that they would dispossess it from said plot; petitioner filed W.P.No.17195 of 1990 and obtained interim orders. Subsequently, when the respondents demanded payment of 10% of land cost as penalty, totalling to Rs.1,48,643-50 ps., without going into any controversy and due to compelling circumstances, the petitioner has yielded to the illegal demand made by respondents and paid the said amount. Having regard to the said circumstances, petitioner has withdrawn W.P.No.17195 of 1990. On receipt of the said amount, again a possession certificate was issued by the respondents on 10-04-1996. Notwithstanding the possession certificate dated 10-04-1996, the petitioner has been in continuous possession of the plot in question till date. In order to materialize the project work, petitioner submitted plan in November, 1996 to Hyderabad Urban Development Authority to grant permission and the said Authority directed the petitioner to submit a revised plan with proper setbacks vide letter, dated 30-11-1996. Pursuant to the said letter, petitioner consulted civil engineer and architect and prepared a revised plan. Subsequently, petitioner having come to know the change of procedure and process for granting building permissions instructed its Liaison Officer to do the needful after consultation with the Estate Officer of the respondent Corporation. The grievance of the petitioner is that in the meanwhile, the third respondent, without issuing any notice to it, issued the impugned proceedings straightaway

for dispossession and resumption of the plot.

3. Heard learned counsel for the parties.

4. Sri K. Ramakrishna Reddy, learned senior counsel has drawn my attention to the Circular No.352/DW/2007, dated 17-01-2007 wherein the respondent Corporation itself has taken a liberal attitude and permitted the allottees for completion of project on payment of certain penalties. In this context, learned senior counsel has drawn my attention to sub-paragraph (iv) of paragraph (3) of the Circular, which deals with delay condonation fee payable by the petitioner.

5. Admittedly, the possession of the plot insofar as the petitioner herein is concerned was given prior to 01-01-1997 i.e., on 15-11-1977, therefore, as per the said Circular, petitioner has to pay penalty at 50% on the prevailing land cost for the entire extent of the plot as on the date of issue of the said Circular. Having regard to the said fact, proceedings dated 24-11-1996 ordering resumption of plot No.A13 Industrial Estate, Moulali is liable to be set aside.

6. Accordingly, the writ petition is allowed and the respondent-Corporation is directed to permit the petitioner to raise its Unit as per the original undertaking, if the petitioner complied with the conditions stipulated in the said Circular dated 17-01-2007 i.e. payment of penalty at the rate of 50% on the market value as per the basic registration value fixed by the Sub Registrar as on the date of the Circular and other conditions of the said Circular. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.27-02-2007
GLV